



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for SB81 Sponsored by Senator D. Sullivan

Subtitle TO AMEND THE LAW CONCERNING OBSCENE MATERIALS; TO CREATE THE OFFENSE OF FURNISHING A HARMFUL ITEM TO A MINOR; AND TO AMEND THE LAW CONCERNING OBSCENE MATERIALS LOANED BY A LIBRARY.

Impact Summary¹ Minimal. While the proposed bill creates a new course of conduct by which a person can commit the offense of possession, sale, or distribution of obscene material, there have been less than ten (10) reported convictions for the offense as currently written within the past three years. For this reason, the projected impact of the proposed bill is minimal.

Change from Current Law² Amends Title 5 of the Arkansas Code Annotated to create a new misdemeanor, eliminate criminal immunity for obscene materials for school and library employees, create a civil action, make technical corrections, and modify the conduct provisions of A.C.A. § 5-68-405, Possession, sale, or distribution.

Under the proposed bill a person who knowingly sends or causes to be sent or brings or causes to be brought into this state for sale or commercial distribution, or in this state prepares, publishes, sells, exhibits, *loans at a library*, or commercially distributes, or gives away or offers to give away or has in the person's possession with the purpose to sell or commercially distribute or to exhibit or to give away, obscene printed or written matter or material... is guilty of a Class D felony. [new course of conduct indicated by *italics*].

Impact Information The proposed bill creates a new course of conduct for which the likely number of occurrences cannot be determined. However, the low number of reported convictions for the offense as currently written makes it unlikely that the new course of conduct will result in a meaningful increase in convictions. For this reason, the projected impact of the proposed bill is projected to have a minimal impact on correctional resources.

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, there was one (1) conviction for 5-68-405, Possession, sale, or distribution. The Division of Correction (ADC) reports that there are currently zero (0) offenders serving a term of incarceration for which A.C.A § 5-68-405, Possession, sale, or distribution.

¹ This impact assessment was prepared 2/14/2023 1:33 PM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Corrections and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: "minimal" = less than 10 offenders per year will be affected; "medium" = would require budgetary increases for ADC inmate costs; and "major" = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

² Standard punishment ranges:

Class Y 10-40 years or life
Class A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors

Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500